

**United States Patent Application
COMBINED DECLARATION AND POWER OF ATTORNEY**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name. I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: SOFTWARE PATCH GENERATOR,

the specification of which:

(a) ☒ is attached hereto,

(b) ☐ was filed on _____ as Serial No. _____,
for which I solicit a United States patent.

ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in 37 Code of Federal Regulations § 1.56, and which is material to the examination of this application, namely, information where there is a substantial likelihood that a reasonable examiner would consider it important in deciding whether to allow the application to issue as a patent (see last page attached hereto).

PRIORITY CLAIM (35 U.S.C. § 119)

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed, or a provisional application filed under § 111(b) of Title 35 (35 U.S.C. § 119(b)).

☒ no such applications have been filed.

☐ such applications have been filed as follows.

FOREIGN/PCT or PROVISIONAL APPLICATION(S) FILED WITHIN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO THIS APPLICATION, CLAIMING PRIORITY UNDER 35 U.S.C. § 119

COUNTRY (OR INDICATE IF PCT)	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 37 U.S.C. § 119
			<input type="checkbox"/> YES <input type="checkbox"/> NO

FOREIGN/PCT APPLICATION(S) FILED BEFORE THE PRIORITY APPLICATION(S)

COUNTRY (OR INDICATE IF PCT)	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE

The first two groups of patients were treated with the standard of care, which consisted of intravenous (i.v.) antibiotics and intravenous (i.v.) fluids. The third group of patients was treated with the standard of care plus a single dose of 100 mg of oral cefixime. The fourth group of patients was treated with the standard of care plus a single dose of 100 mg of oral cefixime and a single dose of 100 mg of oral cefixime.

U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)
09/144,666	September 1, 1998	Pending

Nicholas A. Kees; Reg. No. 29,552
Adam L. Brookman; Reg. No. 32,401
Brian G. Gilpin, Reg. No. 39,997
William K. Baxter, Reg. No. 41,606
Denise L. Stoker, Reg. No. 47,111

Full Name of Second Inventor

Yuri

(FIRST NAME)

(MIDDLE INITIAL OR NAME)

Basin

(FAMILY OR LAST NAME)

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Post Office Address: Same

Inventor's Signature: _____

Date: _____

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RULE 56 (37 U.S.C. §1.56)

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office. This includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information that is material to the patentability of a canceled or withdrawn claim need not be submitted if the information is not material to the patentability of any of the remaining claims. There is no duty to submit information that is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by 37 C.F.R. §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.